

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of

1998 Biennial Regulatory Review – Review of)
the Commission's Broadcast Ownership Rules)
and other rules adopted pursuant to Section 202)
of the Telecommunications Act of 1996.)

MM Docket No. 98-35

RECEIVED
FEB 2 1998
FEDERAL COMMUNICATIONS COMMISSION

REPLY COMMENTS submitted by Casey Torgerson
relating to comments filed by Americans for Radio Diversity

As a citizen concerned with the increasing dominance of the mass media by a small group of very large corporate interests, I wish to reinforce recent comments made by Americans for Radio Diversity in the Commission's Biennial Review of Broadcast Ownership Rules. Underlying those comments is the belief that the FCC has both a number of reasons and the authority to improve regulation of radio broadcasting in the public interest. I would like to help justify those underlying principles, by addressing two issues mentioned by Commissioner Furchtgott-Roth in his separate statement on the Notice of Inquiry in question.

I. on the First Amendment as an Affirmative Basis for Ownership Rules:

The Commissioner states his belief that the First Amendment does not provide any authority to regulate mass media ownership, quoting from it specifically "Congress shall make no law...abridging the freedom of speech". Without conceding this as the only possible interpretation, I offer the opinion that the First Amendment *in no way prohibits* the FCC from enforcing reasonable regulation of the public airwaves for the public interest.

Limiting the extent to which corporate interests can dominate the mass media is no more an abridgment of speech than would be requiring a business blaring information from outside speakers, so loudly as to overwhelm anyone in the vicinity, to turn down the volume. As long as large corporations have the means to purchase time to express themselves in the media (to say nothing of owning a broadcast outlet outright) so far out of proportion to the means of the

ordinary citizen (or even groups of citizens) as they do now, their speech is nowhere close to being realistically "abridged".

II. on the issue of Spectrum Scarcity:

Although in terms of mere numbers technology advances have indeed increased communications outlets, this issue is more complex than that and the scarcity doctrine is by no means obsolete. Most of the newer media outlets have direct costs associated with their use, both initial and on a continuing basis, which exclude or limit access by portions of the population with limited income. It is still the 'free' media, mainly broadcast radio and television, which comprise the center of what might be called the "public square" of the mass media, the very forum which the FCC has the greatest duty to protect in the public interest.

Furthermore there is a practical limit to the number of news and entertainment sources people are able to be aware and make use of. We are all familiar with the term "information overload." In this 'Brave New World' we now live a small number of corporate media conglomerates effectively saturate the culture with their product, seriously restricting the ability of contrary views or unique material from alternate sources to achieve significant exposure, regardless of its intrinsic value.

For both these reasons "spectrum scarcity" remains a valid concept in *real* terms. In fact there is some evidence for this in the Commission's own Notice of Inquiry. Item 20 briefly discusses the increased valuation of publicly traded radio companies since passage of the Telecom Act. It is a basic economic principle that prices increase when either supply decreases or demand increases. Since radio listenership (demand) is at a 17-year *low*, it certainly seems that the market recognizes the radio spectrum (supply) as *more* scarce in fact, not less.

Respectfully submitted,



Casey Torgerson
2358 50th Avenue
Woodville, WI 54028